



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

June 1, 2021

By Email
Prompt Reply Necessary

Mr. Victor Cirilo
Newark Housing Authority
500 Broad Street
Newark, NJ 07102
Email: vcirilo@newarkha.org

Re: Pierson's Creek Superfund Site – Newark, New Jersey
Request for Information Pursuant to 42 U.S.C. §§ 9601-9675

Dear Mr. Cirilo:

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release or threat of release of hazardous substances, pollutants, or contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA" or the "Superfund law"), 42 U.S.C. §§ 9601-9675.

This letter seeks the cooperation of the Newark Housing Authority ("NHA") in providing information relating to the contamination of the Pierson's Creek Superfund Site ("Site") located in Newark, New Jersey, and any information that may assist EPA in its investigation of the Site. EPA has documented the release and threatened release of hazardous substances, pollutants and contaminants at the Site. Under Section 104(e)(2) of CERCLA, EPA has broad information gathering authority, which allows EPA to require persons to provide information and/or documents relating to, among other things, materials generated, treated, stored, or disposed of or transported to a facility as well as the nature and extent of a release of a hazardous substance or pollutant or contaminant at or from a facility. EPA may also request information pertaining to the ability of a person to pay for or perform a cleanup. Additional information about the Superfund law may be found at <https://www.epa.gov/superfund/superfund-cercla-overview>.

Upon information and belief, the NHA previously acquired the property located at 338 Wilson Avenue, Block 5038, Lot 70 (also formerly Lots 108 & 109), in Newark, NJ ("Property"). In the enclosed Request for Information, EPA seeks to obtain information concerning the NHA and its activities at the Property. EPA also believes the NHA may possess some information pertaining to the former Albert Steel Drum/Prentiss Drug and Chemical facility previously located on the Property. Pierson's Creek formerly flowed through the Property and any releases or threats of release of hazardous substances, pollutants and contaminants from the Property will or may have led to contamination in the creek.

We encourage you to give this matter your immediate attention. A complete and truthful response to the attached Request for Information should be provided **within 30 days** of your receipt of this letter. Should

this deadline be difficult to meet in light of the COVID-19 situation, please contact the EPA individuals identified below to discuss an alternative response due date.

While EPA seeks your cooperation in this investigation, compliance with this Request for Information is required by law. In preparing your response to this Request for Information, please follow the instructions provided in Attachment A. When you have prepared your response to the Request for Information, please sign the enclosed "Certification of Answers to Request for Information" and return that Certification to EPA with your response. Please note false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law (18 U.S.C. § 1001). In addition, CERCLA Section 104(e) authorizes EPA to pursue penalties for failure to comply with Requests for Information. The information you provide may be used by EPA in administrative, civil or criminal proceedings.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware you may not withhold the information from EPA upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions Section in Attachment A, including the requirement for supporting your claim of confidentiality.

Please further note that if, after submitting your response, you obtain additional or different information concerning the matters addressed by our information request, it is necessary you promptly notify EPA. If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

See the enclosed Instructions for information on how to respond to the enclosed questions. If you are able to send your response to this Request for Information by electronic mail, please send electronic copies (PDF or JPEG) to Pamela Tames and Amelia Wagner at the e-mail addresses below. Hard copies of your response should be mailed to:

Pamela Tames, P.E., Remedial Project Manager
Superfund and Emergency Management Division
U.S. Environmental Protection Agency
290 Broadway - 19th Floor
New York, NY 10007-1866
tames.pam@epa.gov

with a copy to:

Amelia Wagner, Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 17th Floor
New York, NY 10007-1866
wagner.amelia@epa.gov

If you have any questions regarding this Request for Information, or if you wish to discuss this matter further, please contact Ms. Tames at (212) 637-4255 with technical questions or Ms. Wagner at (212) 637-3141 with legal questions. Please note that all communications from attorneys should be directed to Ms. Wagner.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,

ERIC WILSON

Digitally signed by ERIC WILSON
Date: 2021.06.01 10:08:06
-04'00'

Eric J. Wilson, Deputy Director
Enforcement and Homeland Security
Superfund and Emergency Management Division

Attachments

cc: Pamela Tames, P.E., EPA
Amelia Wagner, Esq., EPA

ATTACHMENT A

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. In answering the questions, every source of relevant information to which you have access should be consulted, regardless of whether the source is in your immediate possession or control. All relevant documents or other information, including records of all types of manufacturing, treatment, transportation or disposal operations, in your possession or in the possession of the NHA should be consulted.
2. A complete and separate response should be given for each question. For each question contained in this letter, if the information or documents responsive to this information request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
3. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
4. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. Consult with all present and past employees and agents of the NHA whom you have reason to believe may be familiar with the matter to which the question pertains.
5. In answering each question, identify each individual and any other source of information (including documents) that was consulted in the preparation of the response to the question.
6. If you are unable to give a detailed and complete answer or to provide any of the information or documents requested, indicate the reason for your inability to do so.
7. If you have reason to believe an individual other than one employed by the NHA may be able to provide additional details or documentation in response to any question, state that person's name, last known address, email address, phone number and the reasons for your belief.
8. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, and number of pages and all recipients of the document with its addresses. If anything is omitted from a document produced in your response to the Request for Information, state the reason for and the subject matter of the omission.
9. If you cannot provide a precise answer to a question, please approximate, but in any such instance, state the reason for your inability to be specific.
10. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.

11. Sign the Certification of Answers to Request for Information where indicated.
12. Confidential Information. The information requested herein must be provided even though you may contend it includes confidential information or trade secrets. You may assert a confidentiality claim which covers part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F).

If you make a claim of confidentiality for any of the information you submit to EPA, you must address the following points:

- a. The portions of the information alleged to be entitled to confidential treatment;
- b. The period of time for which the confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. Measures taken by you to guard against the undesired disclosure of the information to others;
- d. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. Pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determination or a reference to them, if available; and
- f. Whether you assert disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "Confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA review. It is important that you satisfactorily show you have taken reasonable measures to protect the confidentiality of the information, you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e)(7) and EPA's pre-disclosure notification procedures. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you. EPA provides no assurances that all information that you assert as confidential business information will not be publicly disclosed. Any determination regarding public disclosure will be based on a review of the information and relevant countervailing factors.

B. Definitions

1. The term **“arrangement”** shall include every separate contract or other agreement between two or more persons, whether written or oral.
2. The terms **“disposal”**, **“hazardous waste”** and **“storage”** shall have the meanings contained in Sections 1004(3), (5) and (33) of Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6903(3), (5) and (33), respectively.
3. The term **“document”** and **“documents”** shall include any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in the NHA’s possession, custody, or control or known by the NHA to exist, including originals and all non-identical copies.
4. The terms **“facility”**, **“hazardous substance”**, and **“person”**, shall have the meanings set forth in Sections 101(9), (14), and (21) of CERCLA, 42 U.S.C. §§ 9601(9), (14), and (21) respectively.
5. The term **“identify”** means, with respect to a natural person, to set forth the person’s name, present or last known employer, business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position or business. With respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) the term **“identify”** means to provide its full name, address, and affiliation with the individual and/or company to whom this request is addressed.
6. The term **“material”** or **“materials”** shall include any and all objects, goods, substances, or matter of any kind, including, but not limited, to wastes.
7. As used herein, the term **“NHA”** refers not only to the Newark Housing Authority as it is currently named and constituted, but also to all predecessors or successors in interest and all subsidiaries, divisions, affiliates and branches of the NHA and all of its predecessors or successors in interest.
8. The term **“pollutant or contaminant”** shall have the same definition as that contained in Section 101(33) of CERCLA and includes any mixtures of such pollutants or contaminants with any other substances.
9. As used herein, the term **“Property”** refers to 338 Wilson Avenue, Newark, NJ 07105 (Block 5038, Lot 70). Upon information and belief, the two other lots associated with this property, Lots 108 and 109, were merged with Block 5038, Lot 70.
10. The term **“release”** shall have the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
11. The term **“Site”** shall mean the Pierson’s Creek Superfund Site, which includes Pierson’s Creek, all tributaries to Pierson’s Creek, and the Troy Chemical Corporation property located at One Avenue L, Newark, NJ 07105. The Site is located in Newark, NJ in the vicinity of Avenue L and proceeds through open drainage ditches and culverts and covered pipes until it discharges into the Port Newark slip of Newark Bay.

12. The term “**you**” shall mean the addressee of this Request for Information, the addressee’s officers, managers, employees, contractors, trustees, partners, successors, assigns or agents.
13. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.

ATTACHMENT B

REQUEST FOR INFORMATION

- 1) Please answer the following questions with respect to the NHA:
 - a) Has the NHA ever owned the Property located at 338 Wilson Avenue, Newark, New Jersey?
If so:
 - i. From whom did the NHA purchase the Property and in which year?
 - ii. If the NHA no longer owns the Property, to whom did the NHA sell the Property to, and in which year?
 - iii. Please provide copies of the NHA's deed or deeds to the Property. If the NHA sold the Property to another entity, please provide copies of any deeds documenting such sale.
 - b) Did the NHA lease any portion of the Property? If so, please provide all documents and information relating to such leases, including but not limited to, the name of each lessor and the dates during which the NHA leased the Property from each lessor. Additionally, describe the activities, if any, each lessor conducted at the Property.
 - c) Please describe the relationship, if any, between the NHA and any companies or other entities that operated at the Property, including but not limited to Albert Steel Drum and Prentiss Drug and Chemical Company.
- 2) Describe the condition of the Property at the time the NHA acquired it. Additionally, describe all investigations and/or remediation of the Property the NHA undertook prior to acquiring the Property and provide all reports, permits, sampling results, remediation plans, and correspondence relating to the environmental conditions and investigations/remediation efforts at the Property. Please include with your answer to this question:
 - a) Any documentation and sampling data for the storage, use, removal, and disposal of chemical storage drums located at the Property;
 - b) Any documentation and sampling data for any fill located at the Property;
 - c) Any documentation and sampling data for any drainage ditches or culverts located on the Property; and
 - d) The federal, state, and/or local authority under which investigations and/or remediation were carried out at the Property, and whether a Licensed Site Remediation Professional or other environmental professional was engaged in connection with the work.
- 3) Regarding any drainage ditches or culverts located on the Property:
 - a) Please describe the location of such ditches or culverts and where each ditch or culvert drained to while the NHA owned the Property.

- b) Please describe the type and annual amount of materials and/or substances that drained into such ditches or culverts while the NHA owned the Property. Provide any documentation and information related to the type of material and/or substances which entered and subsequently drained from the Property's ditches or culverts.
- 4) Did the NHA make any improvements to or implement any institutional/engineering controls on the Property? If so, please describe the improvements and/or institutional/engineering controls and identify the location of such improvements and/or institutional/engineering controls.
 - 5) Were any waste water or stormwater collection, transport, disposal systems located on or providing service to the Property connected to the Passaic Valley Sewerage Commission ("PVSC") during the time the NHA owned or leased the Property? If so, please identify the materials discharged from the Property into the sewer system and the dates during which the sewer system was connected to the PVSC.
 - 6) Please describe the NHA's operations at the Property.
 - 7) Did the NHA ever receive, utilize, manufacture, discharge, release, store, dispose of, or otherwise handle any hazardous substances, pollutants or contaminants at the Property? If the answer to the preceding question is anything but an unqualified "no," identify:
 - a) In general terms, the nature and quantity of the hazardous substances, pollutants or contaminants so received, utilized, manufactured, discharged, released, stored, disposed of, or otherwise handled.
 - b) The chemical composition, characteristics, physical state (e.g., solid, liquid) of each hazardous substance, pollutant or contaminant.
 - c) The persons/entities who supplied the NHA with each such hazardous substance, pollutant or contaminant.
 - d) How, when, and where each such hazardous substance, pollutant or contaminant was received, utilized, manufactured, discharged, released, stored, disposed of, or otherwise handled.
 - e) The quantity, calculated per year, of each such hazardous substance, pollutant or contaminant received, utilized, manufactured, discharged, released, stored, disposed of, or otherwise handled.
 - 8) Did the Property ever flood while it was owned or occupied by the NHA? If so, how often did the flooding occur on the Property? Have storm sewer back-ups occurred at the Property, and/or did Pierson's Creek or its unnamed tributaries overflow their banks onto the Property?
 - 9) Is the NHA a successor to any liabilities, including those under CERCLA, of any other entity with respect to the Property? If so, please identify the other entity, the liabilities to which the NHA succeeded, and the basis for why you believe the NHA is a successor. Please provide copies of any agreements or other records documenting the basis of your answer.

- 10) Did the New Jersey Department of Environmental Protection ever require a groundwater Classification Exception Area (CEA) to be placed on the Property during the time the NHA owned the Property? If so, please provide all relevant documentation.
- 11) Please provide a detailed description of any civil, criminal, or administrative proceedings against the NHA for violations of any local, state, or federal laws or regulations relating to water pollution or hazardous waste generation, storage, transport, or disposal at or from the Property. Provide copies of all pleadings and depositions or other testimony given in these proceedings.
- 12) If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
- 13) Provide the name, address, telephone number, title, and occupation of the person(s) answering this Request for Information and state whether such person(s) has personal knowledge of the information provided in the responses. In addition, identify each person who assisted in any way in responding to the Request for Information and specify the question to which each person assisted in responding. Please include the names and addresses of former employees who were contacted to respond to any of the questions.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____:

County of _____:

I certify under penalty of perjury that I am authorized to respond on behalf of the Newark Housing Authority, I have personally examined and am familiar with the information and all documents submitted in response to EPA's Request for Information, and based on my inquiry of those individuals immediately responsible for obtaining the information I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that the Newark Housing Authority is under a continuing obligation to supplement this response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me or the Newark Housing Authority after submitting this response.

Executed on _____, 2021

NAME (print or type)

TITLE (print or type)

SIGNATURE